

OFFICE OF THE MAYOR
CITY AND COUNTY OF HONOLULU

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KIRK CALDWELL
MAYOR

ROY K. AMEMIYA, JR.
MANAGING DIRECTOR

GEORGETTE T. DEEMER
DEPUTY MANAGING DIRECTOR

July 25, 2018

The Honorable Ernest Y. Martin
Chair and Presiding Officer
and Members
Honolulu City Council
530 S. King Street, Room 202
Honolulu, Hawaii 96813

Dear Council Chair Martin and Councilmembers:

SUBJECT: Bill 91 (2017), CD2, Relating to Real Property Tax

I understand and appreciate the intent of the Council to provide current service members of the United States Armed Forces a real property tax exemption. Our community owes these service members our gratitude and respect for their sacrifices and commitment to keep our country safe. Therefore, it is only after serious deliberation that I return to you, with my veto, Bill 91 (2017), CD2, Relating to Real Property Tax.

Financial Impact to the City. The Department of Budget and Fiscal Services provided testimony dated May 22, 2018, to the Committee on Budget that the primary concern is the lack of available data needed to project the fiscal impact of the proposed tax exemptions. We do not have information on the number of property owners who meet both the armed forces service requirements and the qualifying criteria for a home exemption. However, as an example, if there were about 7,100 exemptions requested by homeowners under 64, the likely age group for active military members, we estimate a decrease of \$1,000,000 in revenue to city coffers. This is based on the current residential property tax rate (\$3.50 per \$1,000 of the net taxable value).

Fair application of the exemption. There are many other members of our community who provide exemplary service for the public's safety and welfare. In addition to military members, there are active members of the Honolulu Police Department, Honolulu Fire Department, Emergency Medical Services, City and County Lifeguards, Federal Bureau of Investigation officers, and Department of Public Safety Sheriffs, to name the major segments of the law enforcement and first responder community. Yet, Bill 91 only singles out active military members which we believe is an unfair application of the proposed exemption. To include all would create a significant decrease to the City's revenue from property tax.

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Lack of clarity on “service” for National Guard and Reserve units. It is unclear whether those who serve in the National Guard and Reserve units qualify for the exemption under the bill. It is our understanding that those who are reporting one weekend per month are not considered to be on active duty, but members are considered on active duty while fulfilling their two week requirement.

Housing assistance already in place for military members. According to a recent Honolulu Star Advertiser editorial, service members already get tax free allowances which they can apply toward housing and meals. These stipends range from \$2,000 to \$4,000 per month. The impact of this practice on Honolulu’s affordable housing inventory is negative because landlords are able to charge rent at a level that is out of reach for many civilians.

For the reasons stated above, I am returning Bill 91 (2017), CD2, with my veto, and I urge you to sustain it. Military service members already receive substantial benefits for housing in our community, and the financial impact of Bill 91 (2017), CD2, upon the City’s much needed revenue is significant -- revenue used to provide core services and public safety for all residents of Oahu. We must show our gratitude to all military members and veterans for the service they provide our country. While I appreciate that Bill 91 (2017), CD2, seeks to show support for the military, I believe this can be achieved in other and better ways. This veto is about ensuring fairness on how property tax exemptions are applied and protecting the City’s only major revenue stream.

Sincerely,

A handwritten signature in black ink, appearing to read 'Kirk Caldwell', with a long, wavy horizontal line extending to the right.

Kirk Caldwell
Mayor



A BILL FOR AN ORDINANCE

RELATING TO REAL PROPERTY TAXES.

BE IT ORDAINED by the People of the City and County of Honolulu:

SECTION 1. Purpose. The purpose of this ordinance is to provide current service members of the United States Armed Forces a real property tax exemption.

SECTION 2. Section 8-10.4, Revised Ordinances of Honolulu 1990, is amended to read as follows:

"Sec. 8-10.4 Homes.

(a) Real property owned and occupied as the owner's principal home as of the date of assessment by an individual or individuals, is exempt only to the following extent from property taxes:

- (1) Totally exempt where the value of a property is not in excess of \$80,000;
- (2) Where the value of the property is in excess of \$80,000, the exemption is the amount of \$80,000; provided that:
 - (A) No such exemption will be allowed to any corporation, copartnership or company;
 - (B) The exemption will not be allowed on more than one home for any one taxpayer;
 - (C) Where the taxpayer has acquired the taxpayer's home by a deed made on or after July 1, 1951, the deed is recorded on or before September 30th immediately preceding the year for which the exemption is claimed;
 - (D) Spouses will not be permitted exemption of separate homes owned by each of them, unless they are living separate and apart, in which case each is entitled to one-half of one exemption;
 - (E) A person living on premises, a portion of which is used for commercial purposes, is not entitled to an exemption with respect to such portion, but is entitled to an exemption with respect to the portion thereof used exclusively as a home;



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- (F) Notwithstanding any law to the contrary, real property will continue to be entitled to the exemption contained in this section in the event the owner of the real property moves from the home on which the exemption is granted to a long-term care facility or an adult residential care home licensed to operate in the State of Hawaii, provided that:
- (i) The taxpayer designates the adult residential care home or long-term care facility on the form necessary to administer this subsection;
 - (ii) The home the taxpayer moves from is not rented, leased or sold during the time the taxpayer is in the long-term care facility or the adult residential care home; and
 - (iii) Continuation of the home exemption entitles the taxpayer to the benefits of this section in effect during the applicable time period;
- (G) Notwithstanding any law to the contrary, in the event the owner of real property vacates the home for which an exemption is granted and moves to a temporary residence within the city during the renovation of the home, the real property will continue to be entitled to the exemption contained in this section provided that:
- (i) The taxpayer submits to the director a change in status report regarding vacating the home during renovations which identifies:
 - (aa) The building permit number issued by the city department of planning and permitting;
 - (bb) The renovation start date as indicated on the building permit; and
 - (cc) A verifiable address within the city where the taxpayer will reside during the renovation period and where the assessment notices will be mailed;



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- (ii) The renovation period will commence on the renovation start date and must not exceed two years. The taxpayer may reoccupy the home before the expiration of two years. Prior to the reoccupation of the home, the taxpayer must submit to the director a change in status report regarding reoccupation of the home along with a dated certificate of occupancy, notice of completion or close permit indicating the date the renovations have been completed;
 - (iii) Upon receipt by the director of the change in status report regarding reoccupation of the home and a dated certificate of occupancy, notice of completion or close permit, assessment notices will be mailed to the reoccupied home and the owner may sell the home without penalty;
 - (iv) The home must not be rented, leased or sold during the renovation period; and
 - (v) Continuation of the home exemption entitles the taxpayer to the benefits of this section in effect during the applicable time period;
- (H) Notwithstanding any law to the contrary, in the event the owner of the real property vacates the home for which the exemption is granted and moves to a temporary residence outside the city during a sabbatical or temporary work assignment, the real property will continue to be entitled to the exemption contained in this section provided that:
 - (i) The taxpayer submits to the director a change in status report that provides verification of the sabbatical or temporary work assignment and documentation from the taxpayer's employer which specifies the start and completion dates of the sabbatical or temporary work assignment;
 - (ii) Within the report, the taxpayer provides a verifiable address of temporary residence and certification of intent to re-occupy the home on which the exemption is granted after the sabbatical or temporary work assignment concludes;



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- (iii) The home the taxpayer moves from is not rented, leased or sold during the time the taxpayer resides in the designated temporary residence;
 - (iv) The taxpayer re-occupies the home on which the exemption is granted within 24 months after the sabbatical or temporary work assignment begins, however prior to reoccupation of the home the taxpayer submits to the director a change in status report with the actual date the home will be re-occupied; and
 - (v) Continuation of the home exemption entitles the taxpayer to the benefits of this section in effect during the applicable time period; and
- (l) Notwithstanding any law to the contrary, in the event the owner of real property vacates the home for which an exemption is granted and moves to a temporary residence within the city as a result of the home being damaged or destroyed by fire, the real property will continue to be entitled to the exemption contained in this section provided that:
- (i) The damage or destruction of the home is not the result of the taxpayer or any person residing in the home intentionally, knowingly, or recklessly setting fire to the home;
 - (ii) The taxpayer submits to the director a change in status report that provides the date the fire occurred and evidence that the fire caused the home to be uninhabitable;
 - (iii) The taxpayer intends to remain in the city and within the report provides a verifiable address of temporary residence and certification of intent to re-occupy the home on which the exemption is granted after the home is repaired or replaced;
 - (iv) The home the taxpayer moves from is not rented, leased or sold during the time the taxpayer resides in the designated temporary residence;
 - (v) The taxpayer re-occupies the home on which the exemption is granted within 24 months after the date of the fire,



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however prior to reoccupation of the home the taxpayer submits to the director a change in status report with the actual date the home will be reoccupied; and

- (vi) Continuation of the home exemption entitles the taxpayer to the benefits of this section in effect during the applicable time period.

Failure to comply with any of the requirements stipulated within paragraphs (F), (G), (H), and (I) will result in the disallowance of the home exemption and will subject the taxpayer to rollback taxes, interest and penalties as set forth in ~~[subections]~~ subsections 8-10.1(d) and (e) for the period of time the home exemption is continued.

For the purposes of this section, "real property owned and occupied as the owner's principal home" means occupancy of a home in the city and may be evidenced by, but not limited to, the following indicia: occupancy of a home in the city for more than 270 calendar days of a calendar year; registering to vote in the city; being stationed in the city under military orders of the United States; and filing of an income tax return as a resident of the State of Hawaii, with a reported address in the city. The director may demand documentation of the above or other indicia from a property owner applying for an exemption or from an owner as evidence of continued qualification for an exemption. Failure to respond to the director's request is grounds for denying a claim for an exemption or disallowing an existing exemption. The director may demand documentary evidence such as a tax clearance from the State of Hawaii indicating that the taxpayer filed an income tax return as a full-time resident for the year prior to the effective date of the exemption. Failure to respond to the director's demand in 30 days is grounds for disallowance or denial of a claim for an exemption.

In the event the director receives satisfactory evidence that an individual occupies a home outside the city or there is documented evidence of the individual's intent to reside outside the city, that individual will not be qualified for an exemption or continued exemption under this section, as the case may be.

Notwithstanding any provision to the contrary, for real property held by a trustee or other fiduciary, the trustee or other fiduciary is entitled to the exemption where:

- (i) the settlor of the trust occupies the property as the settlor's principal home; or
- (ii) the settlor of the trust dies and a beneficiary entitled to live in the home under the terms of the trust document occupies the property as the beneficiary's principal home.



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For purposes of this subsection, real property is "sold" when title to the real property is transferred to a new owner; and property is deemed "uninhabitable" if the property owner is unable to live in or on the property for health or safety reasons.

The director of budget and fiscal services may adopt rules and shall provide forms as may be necessary to administer this subsection.

- (b) The use of a portion of any building or structure for the purpose of drying coffee and the use of a portion of real property, including structures, in connection with the planting and growing for commercial purposes, or the packing and processing for such purposes, of flowers, plants, or foliage, shall not affect the exemptions provided for by this section.
- (c) Where two or more individuals jointly, by the entirety, or in common own or lease land on which their homes are located, each home, if otherwise qualified for the exemption granted by this section, shall receive the exemption. If a portion of land held jointly, by the entirety, or in common by two or more individuals is not qualified to receive an exemption, such disqualification shall not affect the eligibility for an exemption or exemptions of the remaining portion.
- (d) A taxpayer who is 65 years of age or over on or before June 30th preceding the tax year for which the exemption is claimed and who qualifies under subsection (a) ~~[of this section]~~ shall be entitled to a home exemption of \$120,000.

For the purpose of this subsection, a husband and wife who own property jointly, by the entirety, or in common, on which a home exemption under the provisions of subsection (a) ~~[of this section]~~ has been granted shall be entitled to the \$120,000 home exemption set forth above when at least one of the spouses qualifies for this home exemption.

- (e)
 - (1) In lieu of the \$120,000 home exemption provided in subsection (d), a low-income taxpayer who:
 - (A) Is 75 years of age or over on or before June 30th preceding the tax year for which the exemption is claimed;
 - (B) Qualifies under subsection (a) ~~[of this section]~~;
 - (C) Applies for the exemption as required in subdivision (2) ~~[of this subsection]~~; and



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- (D) Has household income that meets the definition of "low-income" in Section 8-10.20(a) shall be entitled to one of the following home exemption amounts for that tax year:

Age of Taxpayer	Home Exemption Amount
75 years of age or over but not 80 years of age or over	\$140,000
80 years of age or over but not 85 years of age or over	\$160,000
85 years of age or over but not 90 years of age or over	\$180,000
90 years of age or over	\$200,000

- (2) The claim for exemption, allowed at the applicant's attainment of 75, 80 or 85 years, shall continue for a maximum period of five years, after which period of time the home exemption amount shall revert to \$120,000, except the claim for exemption at 90 years of age shall extend for the life of the applicant or until June 30, 2039. The director shall not accept claims for exemption under this subsection after September 30, 2013.
- (3) For the purpose of this subsection, a husband and wife who own property jointly, by the entirety, or in common, on which a home exemption under the provisions of subsection (a) ~~[of this section]~~ has been granted and qualify under this subsection shall be entitled to the applicable home exemption set forth above when at least one of the spouses qualifies each year for the minimum age of the applicable home exemption.
- (f) To qualify for the exemptions under subsections (d) and (e), a taxpayer must provide, upon request, a photocopy of or submit for inspection, a current, valid government-issued identification containing a photo and the date of birth, such as a Hawaii State driver's license, a Hawaii State identification card, or a passport.
- (g) A taxpayer who is serving in any of the armed forces of the United States on September 30th immediately preceding the tax year for which the exemption is claimed and whose real property qualifies for the exemption under subsection (a) will be entitled to a home exemption of \$120,000, subject to providing proof of service status to the director.

For purposes of this subsection, "armed forces of the United States" means the United States Air Force, Air National Guard, Air Force Reserve, Army, Army National Guard, Army Reserve, Coast Guard, Coast Guard Reserve, Marine Corps, Marine Corps Forces Reserve, Navy, and Navy Reserve."



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BILL **91 (2017), CD2**

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SECTION 3. Ordinance material to be repealed is bracketed and stricken. New material is underscored. When revising, compiling, or printing this ordinance for inclusion in the Revised Ordinances of Honolulu, the Revisor of Ordinances need not include the brackets, the material that has been bracketed and stricken, or the underscoring.



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SECTION 4. This ordinance takes effect upon approval and applies to tax years beginning July 1, 2019 and thereafter; provided that this ordinance shall not be deemed to supersede the repeal of Section 8-10.4(e), Revised Ordinances of Honolulu 1990, on June 30, 2039 pursuant to SECTION 3 of Ordinance 13-32.

INTRODUCED BY:

Ernest Y. Martin

DATE OF INTRODUCTION:

October 9, 2017

Honolulu, Hawaii

Councilmembers

APPROVED AS TO FORM AND LEGALITY:

Karen Lee

Deputy Corporation Counsel KAREN LEE

Dis APPROVED this 25th day of July, 2018.

Vetoed - ICWC

KIRK CALDWELL, Mayor
City and County of Honolulu

CITY COUNCIL
CITY AND COUNTY OF HONOLULU
HONOLULU, HAWAII
CERTIFICATE

ORDINANCE

BILL 91 (2017), CD2

Introduced: 10/09/17

By: ERNEST MARTIN

Committee: BUDGET

Title: A BILL FOR AN ORDINANCE RELATING TO REAL PROPERTY TAXES.

Voting Legend: * = Aye w/Reservations

11/01/17	COUNCIL	BILL PASSED FIRST READING AND REFERRED TO COMMITTEE ON BUDGET. 9 AYES: ANDERSON, ELEFANTE, FUKUNAGA, KOBAYASHI, MANAHAN, MARTIN, MENOR, OZAWA, PINE.
05/23/18	BUDGET	CR-195(18) – BILL REPORTED OUT OF COMMITTEE FOR PASSAGE ON SECOND READING AND SCHEDULING OF A PUBLIC HEARING AS AMENDED IN CD1 FORM.
05/26/18	PUBLISH	PUBLIC HEARING NOTICE PUBLISHED IN THE HONOLULU STAR-ADVERTISER.
06/06/18	COUNCIL/PUBLIC HEARING	CR-195(18) ADOPTED. BILL PASSED SECOND READING AS AMENDED, PUBLIC HEARING CLOSED AND REFERRED TO COMMITTEE ON BUDGET. 9 AYES: ANDERSON, ELEFANTE*, FUKUNAGA, KOBAYASHI, MANAHAN, MARTIN, MENOR, OZAWA, PINE.
06/13/18	PUBLISH	SECOND READING NOTICE PUBLISHED IN THE HONOLULU STAR-ADVERTISER.
06/27/18	BUDGET	CR-224(18) – BILL REPORTED OUT OF COMMITTEE FOR PASSAGE ON THIRD READING AS AMENDED IN CD2 FORM.
07/11/18	COUNCIL	CR-224(18) ADOPTED AND BILL 91 (2017), CD2 PASSED THIRD READING AS AMENDED. 6 AYES: ANDERSON*, ELEFANTE*, FUKUNAGA, MARTIN, OZAWA, PINE. 2 NOES: MANAHAN, MENOR. 1 ABSENT: KOBAYASHI.

I hereby certify that the above is a true record of action by the Council of the City and County of Honolulu on this BILL.


GLEN I. TAKAHASHI, CITY CLERK


ERNEST Y. MARTIN, CHAIR AND PRESIDING OFFICER